

Application Serial No: 10/518,136  
Responsive to the Office Action mailed on: October 10, 2007

### **REMARKS**

This Amendment is in response to the Office Action mailed on October 10, 2007. Claim 3 is amended editorially to include the features of claim 4. Claim 3 is further amended editorially is supported, for example, in the specification on page 6, lines 14-34. Claim 20 is added and is supported, for example, in the specification on page 6, lines 14-34. Claims 1, 2, 4 and 8-11 are cancelled without prejudice or disclaimer. No new matter is added. Claims 3, 12-15 and 20 are pending with claims 5-7 and 16-19 being withdrawn.

#### **§102 Rejections:**

Claims 1 and 2 are rejected as being anticipated by Gunpei (JP 06-317526). As claims 1 and 2 are cancelled without prejudice or disclaimer, this rejection is now moot. Applicants do not concede the correctness of this rejection.

Claims 1 and 3 are rejected as being anticipated by White (US Patent Publication No. 2005/001175). This rejection is traversed. As claim 1 is cancelled without prejudice or disclaimer and claim 3 is amended to include the features of claim 4, this rejection is now moot. Claim 3 is discussed below as it pertains to the rejection directed to claim 4.

#### **§103 Rejections:**

Claim 4 is rejected as being unpatentable over White in view of Gunpei. As claim 3 is amended to include the features of claim 4, the following is noted with respect to this rejection as it pertains to amended claim 3.

Claim 3 is directed to a fluorometer for detecting intensity of fluorescence generated from a substance that is excited by light emitted from a light source that requires, among other features, that a relative ratio or a difference between the intensities P1, P2..., Pn of the fluorescence detected respectively by n light-receiving portions is determined to detect a wavelength width of a spectrum of the fluorescence. An advantage of detecting a wavelength width of a spectrum of the fluorescence is that differences between two or more substances with different fluorescence spectra can be distinguished precisely.

Application Serial No: 10/518,136  
Responsive to the Office Action mailed on: October 10, 2007

The combination of White and Gunpei does not teach or suggest these features. The rejection asserts that White teaches the detection of the intensities of the fluorescence and Gunpei teaches calculating a ratio between the detected intensities. White is directed to a dual wavelength optical analyzer in which a sample is irradiated with two laser beams emitted from two light sources at different wavelengths, and two types of fluorescence with different wavelengths generated from the sample are separated through a filter and detected. However, nowhere does White suggest determining a difference between the intensities  $P_1, P_2, \dots, P_n$  of the fluorescence detected respectively by  $n$  light-receiving portions to detect a wavelength width of a spectrum of the fluorescence, as required by claim 3. Also, nowhere does White contemplate irradiating a substance with light emitted from a single light source, and taking a general view of a spectrum in a wide length region of the fluorescence generated from the substance using a plurality of narrow-band-pass filters and a plurality of light-receiving portions.

Gunpei does not overcome these deficiencies of White. Gunpei is directed to a multiple-wavelength light measuring instrument that determines a fluorescence intensity ratio at each wavelength detected with two individual photomultipliers (17 and 19) (see paragraph [0007] and Figure 7). Nowhere does Gunpei suggest determining a relative ratio between the intensities  $P_1, P_2, \dots, P_n$  of the fluorescence detected respectively by  $n$  light-receiving portions to detect a wavelength width of a spectrum of the fluorescence. Also, nowhere does Gunpei contemplate irradiating a substance with light emitted from a single light source, and taking a general view of a spectrum in a wide length region of the fluorescence generated from the substance using a plurality of narrow-band-pass filters and a plurality of light-receiving portions. For at least these reasons claim 3 is not suggested by the combination of White and Gunpei.

Claims 8 and 12 are rejected as being unpatentable over White in view of Tatsuro (JP 2002-350732). Claim 12 depends from claim 3 and is allowable for at least the same reasons discussed above.

Application Serial No: 10/518,136  
Responsive to the Office Action mailed on: October 10, 2007

Claims 9 and 13 are rejected as being unpatentable over White in view of Shigero (JP 2002-181706). Claim 13 depends from claim 3 and is allowable for at least the same reasons discussed above.

Claims 10 and 14 are rejected as being unpatentable over White in view of Kohei (JP 2000-304699). Claim 14 depends from claim 3 and is allowable for at least the same reasons discussed above.

Claims 11 and 15 are rejected as being unpatentable over White in view of Hidekazu (JP 2001-124696). Claim 12 depends from claim 3 and is allowable for at least the same reasons discussed above.

Conclusion:

Applicants respectfully assert that claims 3, 12-15 and 20 are in condition for allowance. If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicants' primary attorney-of record, Douglas P. Mueller (Reg. No. 30,300), at (612) 455-3804.



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Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &  
LARSON, P.C.  
P.O. Box 2902-0902  
Minneapolis, MN 55402-0902  
(612) 455-3800

By: \_\_\_\_\_

Douglas P. Mueller  
Reg. No. 30,300  
DPM/ahk